

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

ACADEMY OF ALLERGY & ASTHMA	§	
IN PRIMARY CARE and UNITED	§	
BIOLOGICS, LLC, d/b/a UNITED	§	
ALLERGY SERVICES,	§	
	§	
Plaintiffs,	§	
	§	
vs.	§	CIV. NO. 5:14-CV-00035-OLG
	§	
AMERICAN ACADEMY OF ALLERGY	§	
ASTHMA & IMMUNOLOGY, ET AL.,	§	
	§	
Defendants.	§	

DECLARATION OF JAMES A. REEDER IN SUPPORT OF PHADIA US INC.  
AND THERMO FISHER SCIENTIFIC INC.'S MOTION FOR SUMMARY JUDGMENT

1. My name is James A. Reeder, Jr. I am a Partner in the law firm of Vinson & Elkins, LLP and am engaged in the representation of Defendants Phadia US, Inc. ("Phadia") and Thermo Fisher Scientific Inc. ("Thermo Fisher"). I submit this declaration in support of Phadia and Thermo Fisher's Motion for Summary Judgment. I have personal knowledge of the facts set forth herein, and if called upon as a witness, I could testify to them competently under oath. I submit this declaration in support of Phadia and Thermo Fisher's Motion for Summary Judgment. I have personal knowledge of the facts set forth herein, and if called upon as a witness, I could testify to them competently under oath.

2. Attached to previously filed Dkt. 310 is Exhibit 1, a true and correct copy of the Bexar County Court Records Search of *United Biologics, LLC* Lawsuits (July 26, 2016).

3. Attached to previously filed Dkt. 307 is Sealed Exhibit 2, a true and correct copy of excerpts from the official transcript of the March 31, 2016 deposition of James Sublett.

4. Attached to previously filed Dkt. 307 is Sealed Exhibit 3, a true and correct copy of excerpts from the official transcript of the November 11, 2015 deposition of Jason Sigmon.

5. Attached to previously filed Dkt. 307 is Sealed Exhibit 4, a true and correct copy of excerpts from the official transcript of the April 13, 2016 deposition of Joseph Bernardo.

6. Attached to previously filed Dkt. 307 is Sealed Exhibit 5, a true and correct copy of Marketing Materials: "Does money really grow on trees?" (WDTX-UAS-242143).

7. Attached to previously filed Dkt. 307 is Sealed Exhibit 6, a true and correct copy of excerpts from the official transcript of the January 12, 2016 deposition of Michael DelVacchio.

8. Attached to previously filed Dkt. 307 is Sealed Exhibit 7, a true and correct copy of excerpts from the official transcript of the January 14, 2016 deposition of Tonya Winders.

9. Attached to previously filed Dkt. 307 is Sealed Exhibit 8, a true and correct copy of excerpts from the official transcript of the October 22, 2015 deposition of Brandon Massey.

10. Attached to previously filed Dkt. 307 is Sealed Exhibit 9, a true and correct copy of AANMA invoices (PHADIA0006186)

11. Attached to previously filed Dkt. 307 is Sealed Exhibit 10, a true and correct copy of excerpts from the official transcript of the April 19, 2016 deposition of Brian Yang.

12. Attached to previously filed Dkt. 307 is Sealed Exhibit 11, a true and correct copy of excerpts from the official transcript of the March 8, 2016 deposition of Anthony Notarthomas.

13. Attached to previously filed Dkt. 307 is Sealed Exhibit 12, a true and correct copy of excerpts from the official transcript of the July 14, 2016 deposition of Allan Chernov.

14. Attached to previously filed Dkt. 307 is Sealed Exhibit 13, a true and correct copy of excerpts from the official transcript of the August 19, 2015 deposition of David Palafox.

15. Attached to previously filed Dkt. 307 is Sealed Exhibit 14, a true and correct copy of excerpts from the official transcript of the April 26, 2016 deposition of Nicolas Hollis.

16. Attached to previously filed Dkt. 307 is Sealed Exhibit 15, a true and correct copy of the *Expert Report of Peter Kongstvedt*, as produced by counsel for Phadia on June 8, 2016.

17. Attached to previously filed Dkt. 307 is Sealed Exhibit 16, a true and correct copy of an email and attachments from UAS's Chief Medical Officer re: Revised immunotherapy protocol (WDTX-UAS-269759).

18. Attached to previously filed Dkt. 307 is Sealed Exhibit 17, a true and correct copy of an Email from Nicolas Hollis to Kevin Johnson re: Insurance Payer Log 9 (WDTX-UAS-247211) (Hollis Exhibit 1440).

19. Attached to previously filed Dkt. 310 is Exhibit 18, a true and correct copy of Blue Cross Blue Shield of Florida Medical Policy (Effective Jan. 1, 2010) (FB\_000001).

20. Attached to previously filed Dkt. 310 is Exhibit 19, a true and correct copy of Blue Cross Blue Shield of Florida Medical Policy (Effective April 15, 2011) (FB\_000042).

21. Attached to previously filed Dkt. 307 is Sealed Exhibit 20, a true and correct copy of UAS Payor Reimbursement Tracker-Midwest (WDTX-UAS-284157).

22. Attached to previously filed Dkt. 310 is Exhibit 21, a true and correct copy of an Email from Dwight Bower re: UAS (BCBS\_LA000949).

23. Attached to previously filed Dkt. 307 is Sealed Exhibit 22, a true and correct copy of excerpts from the official transcript of the September 3, 2015 deposition of Barry Lachman.

24. Attached to previously filed Dkt. 307 is Sealed Exhibit 23, a true and correct copy of excerpts from the official transcript of the June 10, 2016 deposition of Michael Martin.

25. Attached to previously filed Dkt. 307 is Sealed Exhibit 24, a true and correct copy of excerpts from the official transcript of the June 7, 2016 deposition of Dwight Brower.

26. Attached to previously filed Dkt. 307 is Sealed Exhibit 25, a true and correct copy of excerpts from the official transcript of the June 10, 2016 deposition of Robyne Goates.

27. Attached to previously filed Dkt. 307 is Sealed Exhibit 26, a true and correct copy of excerpts from the official transcript of the June 29, 2016 deposition of Molly O'Toole.

28. Attached to previously filed Dkt. 307 is Sealed Exhibit 27, a true and correct copy of excerpts from the official transcript of the June 22, 2016 deposition of Barbara Muller.

29. Attached to previously filed Dkt. 307 is Sealed Exhibit 28, a true and correct copy of excerpts from the official transcript of the June 27, 2016 deposition of Sonya Canady.

30. Attached to previously filed Dkt. 307 is Sealed Exhibit 29, a true and correct copy of excerpts from the official transcript of the July 13, 2016 deposition of William Glomb.

31. Attached to previously filed Dkt. 307 is Sealed Exhibit 30, a true and correct copy of an email and attachment from David Kennedy re: Late distribution of slides (WDTX-UAS-246156).

32. Attached to previously filed Dkt. 307 is Sealed Exhibit 31, a true and correct copy of AAAPC Articles of Incorporation (WDTX-UAS-010332).

33. Attached to previously filed Dkt. 307 is Sealed Exhibit 32, a true and correct copy of an email and attachments from Thomas Thill re: Marketing Follow up from Staff Meeting (WDTX-UAS-254269).

34. Attached to previously filed Dkt. 307 is Sealed Exhibit 33, a true and correct copy of the *Expert Report of David Eisenstadt*, as produced by counsel for Phadia on June 15, 2016.

35. Attached to previously filed Dkt. 307 is Sealed Exhibit 34, a true and correct copy of the *Rebuttal Report of Donald House, Sr.*, as provided to me by counsel for Plaintiffs on July 1, 2016.

36. Attached to previously filed Dkt. 310 is Exhibit 35, a true and correct copy of a letter from South Central Preferred's Medical Director (SCP000077).

37. Attached to previously filed Dkt. 307 is Sealed Exhibit 36, a true and correct copy of excerpts from the official transcript of the April 28, 2016 deposition of Nicolas Hollis.

38. Attached to previously filed Dkt. 307 is Sealed Exhibit 37, a true and correct copy of excerpts from the official transcript of the June 27, 2016 deposition of Cody Mikeal.

39. Attached to previously filed Dkt. 307 is Sealed Exhibit 38, a true and correct copy of the *Revised Expert Report of Donald House, Sr.*, as provided to me by counsel for Plaintiffs on May 2, 2016.

40. Attached to previously filed Dkt. 307 is Sealed Exhibit 39, a true and correct copy of excerpts from the official transcript of the April 1, 2016 deposition of Leticia Fecher.

41. Attached to previously filed Dkt. 307 is Sealed Exhibit 40, a true and correct copy of excerpts from the official transcript of the June 29, 2016 deposition of Kevin McAnaney.

42. Attached to previously filed Dkt. 307 is Sealed Exhibit 41, a true and correct copy of an email from Kurt Heiss re: OIG Opinion Letter Update (Heiss Exhibit 296) (WDTX-UAS-174536).

43. Attached to previously filed Dkt. 307 is Sealed Exhibit 42, a true and correct copy of excerpts from the official transcript of the June 23, 2016 deposition of David Eisenstadt.

44. Attached to previously filed Dkt. 307 is Sealed Exhibit 43, a true and correct copy of JCAAI's First Supplemental Responses and Objections to Plaintiffs' Second Set of Interrogatories (Sublett Exhibit 1160).

45. Attached to previously filed Dkt. 307 is Sealed Exhibit 44, a true and correct copy of the *Rebuttal Report of Peter Boland, Ph.D.*, as provided to me by counsel for Plaintiffs on July 1, 2016.

46. Attached to previously filed Dkt. 307 is Sealed Exhibit 45, a true and correct copy of excerpts from the official transcript of the May 25, 2016 deposition of Donald House.

47. Attached to previously filed Dkt. 307 is Sealed Exhibit 46, a true and correct copy of excerpts from the official transcript of the June 17, 2016 deposition of Steven Wiggins.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Date: August 2, 2016

Respectfully submitted,

/s/ James A. Reeder, Jr.  
James A. Reeder, Jr.

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served electronically in compliance with Local Rule CV-5(a). As such, the foregoing document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(b)(1). Pursuant to Fed. R. Civ. P. 5(a)-(d) and Local Rule CV-5(b)(2), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email and/or fax on this 2nd day of August, 2016.

/s/ Michelle K. Arishita  
Michelle K. Arishita